

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

EDGAR REYNA,

Plaintiff,

v.

**EPIROC DRILLING SOLUTIONS
LLC,**

Defendant.

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Case No. 3:23-cv-01005-X

**DEFENDANT’S REQUEST FOR CLARIFICATION, OR IN THE ALTERNATIVE,
UNOPPOSED MOTION TO EXTEND DEFENDANT’S DEADLINE TO FILE REPLY
BRIEF IN SUPPORT OF DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Defendant Epiroc Drilling Solutions LLC (“Epiroc”) files this Request to clarify or confirm that its deadline to file its Reply in support of its Motion for Summary Judgment and Brief in Support (Dkts. 43-46) (the “Motion”) is due two-weeks after Plaintiff Edgar Reyna (“Reyna”) files his amended Response, Brief, and Appendix in opposition to Epiroc’s Motion, as ordered by the Court (Dkt. 61). In the alternative, Epiroc requests an extension until September 27, 2024, to file its Reply in support of its Motion. In support, Epiroc states as follows:

1. Epiroc timely filed its Motion on July 26, 2024 (Dkts. 43-46).
2. On August 13, 2024, Reyna filed a motion requesting leave and an extension of two-weeks for additional time to respond to Epiroc’s Motion, which Defendant opposed, but the Court generously granted. (Dkt. 47.)
3. On August 29-30, 2024, Reyna filed his Response to Defendant’s Motion for Summary Judgment (sic) and supporting documents (Dkts. 49-53.) Reyna’s response brief (1) exceeded the page limits; (2) failed to include a statement of facts; and (3) included numerous inexcusable drafting errors.

4. On August 30, 2024, counsel for Reyna informed defense counsel of her intention to seek an extension of time and leave to file an amended summary judgment response brief expanding Reyna's current brief by five pages, to cure "errors to citation and drafting," and an amended appendix.

5. That same day, Reyna filed his "Motion for two day extension of time; motion for leave to file amedned [sic] summary judgment response, brief and appendix; motion for leave to file amended appendix in support of motion to strike and motion for leave to file a response brief to motion for summary judgment in excess of fifty pages." Dkt. 54.

6. Epiroc opposed this extension request and submitted its Response in Opposition later that same afternoon. Dkt. 55.

7. On August 31, 2024, Reyna submitted three filings: Amended Response to Epiroc's Motion (Dkt. 57); Amended Brief in Opposition to Epiroc's Motion (Dkt. 58); and Amended Appendix of Evidence in Support of Reyna's Opposition to Epiroc's Motion (Dkt. 59).

8. Epiroc then filed a Supplemental Response in Opposition to Reyna's filings. Dkt. 60. In that Supplemental Response, Epiroc explained that Reyna added new arguments and new evidence in the amended filings and did not just correct some "drafting errors" as Reyna represented to the Court and counsel for Epiroc. *Id.*

9. On September 6, 2024, the Court entered an electronic order, in relevant part, striking Reyna's amended filings (specifically, Dkts. 57, 58, and 59). The Court then ordered Reyna to file another amended brief "compliant with Local Rule 56.5(b), an amended response compliant with Local Rule 56.4, and an appendix compliant with Local Rule 56.6 on or before Friday, September 13, 2024." Dkt. 61. The Court's order continued that "new substantive arguments are not allowed in the amended brief, but corrections as to format, grammar, citations,

sentence structure, and the like are permitted, as is attaching exhibits to the appendix instead of the brief.” *Id.*

10. As the Court has ordered Reyna to file new briefing, Epiroc seeks clarification that this Order also extended Epiroc’s deadline to file its Reply brief until two-weeks after Reyna’s new Response briefing is filed, per the Local Rules.

11. In the alternative, and if the Court’s Order striking Reyna’s amended briefing (Dkts. 57, 58, and 59) means that Reyna’s original responsive briefing (Dkts. 50, 51, 52) filed on August 29-30, 2024 triggered Epiroc’s Reply deadline, Epiroc respectfully requests a two-week extension after Reyna files his new amended briefing to file its Reply in support of its Motion.

12. As Epiroc did not know which of Reyna’s response briefs it should focus its Reply until the Court’s Order, Epiroc is at a timing disadvantage to submit its Reply. In addition, Epiroc requests time to review and read Reyna’s new amended briefing as ordered by the Court to properly and fully reply.

WHEREFORE, PREMISES CONSIDERED, Epiroc requests clarification regarding its deadline to file a Reply brief in support of its Motion. *In the alternative*, Epiroc requests an extension to file its Reply brief until September 27, 2024. Epiroc further seeks any other relief to which it may be entitled.

Respectfully submitted,

/s/ Jamie Ashton

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2024, the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to Plaintiff's counsel.

/s/Jamie Ashton

Jamie Ashton

CERTIFICATE OF CONFERENCE

I hereby certify that on September 10, 2024, I communicated with counsel for Plaintiff, Lisa Ventress, via e-mail regarding the relief sought in this Motion. Counsel for Plaintiff indicated that Plaintiff does not oppose the relief sought in this Motion.

/s/ Jamie Ashton

Jamie Ashton